REMARKS

Applicants submit this response to the Office Action dated April 2, 2004. Claims 1-11, 13-16, and 18-30 are pending, and claims 12, 17 and 31-44 were previously cancelled.

The Examiner has stated that claim 1 allegedly fails to comply with the written description requirement as specified by the first paragraph of 35 USC § 112, and that the "applicants do not have any description in the specification and no examples directed to having R4 being a halogen" (page 3 lines 1-2). The applicant respectfully submits that the specification does contain support for R4 being a halogen, and further, a halogen at position 4. As requested by the Examiner in the May 12, 2004 telephone interview, the applicant points to the following support in the specification for an R4 halogen at position 4. Examples 13 and 15 disclose compounds in which a halogen is present at R4. In addition, lines 9-10 on page 5 state that "R4 is independently selected from halogen, alkyl, heteroalkyl, aryl, heteroaryl, carbocyclic aliphatic ring and heterocycle aliphatic ring, amino or hydroxy" (emphasis added). Figure 1 on page 5 shows the structure of the invention; the moiety $(R^4)_n$ is connected to the center of the pyridine ring by a horizontal line, a convention that indicates R4 can be present at any of the open positions in the ring, positions 2, 4, or 5. Taken together, these references indicate that the specification does contain a written description of R4 being a halogen at position 4. Therefore, the applicant respectfully submits that the rejection based on 35 U.S.C. § 112 first paragraph regarding R4 halogens at position 4 can be withdrawn.

Claim 1, 5, 6 and 8 were rejected under 35 U.S.C. § 112, first paragraph, because the specification, "while being enabling for R1 to be a limited no of substituents, does not reasonably provide enablement for any and all these various hetero cyclic groups substituted or unsubstituted" (page 3 lines 5-7). The applicant asserts that the specification does contain support for R1 being a heterocyclic group, substituted or unsubstituted. There are a number of examples in the specification that teach the synthesis of substituted or unsubstituted heteroalkyl, substituted or substituted heteroaryl, and substituted or unsubstituted heterocycle aliphatic ring from the precursor 6-chloro-N-(4-fluoro-phenyl)-1-oxy-nicotinamide, shown in Example 1B on page 30. The techniques used for the specific substitution of a chloro group with heterocyclic, heteroalkyl or heteroaryl groups at the R1 position of 6-chloro-N-(4-fluoro-phenyl)-1-oxy-nicotinamide are well-known in the art, and many compounds can readily be produced by treating the precursor molecule with an appropriate nucleophile under nucleophilic substitution

conditions. Examples 2-9, and 16-18 each demonstrate the exchange of an R1 chloro- for a heterocyclic, heteroalkyl, or heteroaryl group. While the substituents added in Examples 2-9 are all nitrogen-containing hetero groups, Example 16 discloses an O-linked heterogroup, Example 17 discloses an S-linked heterogroup, and Example 20 teaches the addition of a substituent with two different heteroatoms. Example 19 also teaches the addition of a substituent with two different heteroatoms utilizing an additional synthetic step. Based on these examples, which employ well-known synthetic techniques, the applicant asserts that the specification does support compounds with various substituted or unsubstituted heterocyclic groups and therefore respectfully requests withdrawal of the rejection of claims 1, 5, 6, and 8.

All of the claims remaining in the application are now clearly allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

If questions remain regarding this application, the Examiner is invited to contact the undersigned at (206) 628-7650.

Respectfully submitted,
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